

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

2003 DEC -8 A 11:08

UNITED STATES OF AMERICA :

-v- :

BRIAN J. STUCKE :

NO. **CR2-03-207**

JUDGE HOLSCHUH

STATEMENT OF FACTS

The United States of America and BRIAN J. STUCKE, the defendant, agree that the following statement provides a factual basis for his plea of guilty in this case, pursuant to Fed.R.Crim.P. 11(b)(3):

National Century Financial Enterprises, Inc. or NCFE, was an Ohio corporation, headquartered in Dublin, Ohio, that operated as a financial service holding company, which, through its subsidiary corporations, purchased accounts receivable from hospitals, nursing homes and other medical providers and concerns. NCFE advertised that its principal business was financing health care providers through the purchase of their accounts receivable payable by private insurers and public health care programs such as Medicare and Medicaid, and described itself in promotional statements as the leading supplier of working capital to the medical industry in the United States.

NPF VI, Inc. or NPF VI, was an Ohio corporation and a wholly-owned subsidiary of NCFE. NPF VI was formed for the stated purpose of purchasing health care receivables and funding such purchases with the proceeds from the offer and sale of securities, known as health care receivables securitization program notes, to investors.

NPF XII, Inc. or NPF XII, also was an Ohio corporation and a wholly-owned

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subsidiary of NCFE. Like NPF VI, NPF XII was formed for the stated purpose of purchasing health care receivables and funding such purchases with the proceeds from the offer and sale of health care receivables securitization program notes to investors.

The Chase Manhattan Bank acted as a trustee for investors holding health care receivable securitization notes issued by NPF VI. Bank One acted as the trustee for NPF XII investors.

National Premier Financial Services, Inc. was another subsidiary of NCFE that purportedly provided administrative services for health care receivables purchases by NPF VI and NPF XII.

Several accounting firms, including PricewaterhouseCoopers and Deloitte & Touche, among others, were retained by NCFE to perform audits or other accounting procedures for the company and its subsidiaries.

Defendant BRIAN J. STUCKE was employed by NCFE in its Compliance Department. From July 15, 1999 to July 26, 2000, BRIAN J. STUCKE was Director of NCFE's Compliance Department. During that time, BRIAN J. STUCKE was involved in the issuance of monthly investor reports to the NPF VI and NPF XII trustees and to investment rating companies such as Fitch IBCA, Inc. and Duff & Phelps Credit Rating Co.

Beginning at least on July 15, 1999, BRIAN J. STUCKE conspired with at least seven (7) executives and owners of NCFE to defraud investors in health care receivable securitization notes issued by NPF VI and NPF XII. The conspirators furthered the ends of the conspiracy to defraud investors through several means, including falsification of information and reports, creation of fraudulent documents to mislead auditors and investors, transfer of hundreds of millions of dollars between and among bank accounts

of NPF VI and NPF XII to deceive trustees and investors about balances in those accounts, and execution of a Ponzi scheme to divert proceeds from the offer and sale of NPF VI and NPF XII notes.

From at least July 15, 1999, to July 26, 2000, BRIAN J. STUCKE, with guidance and direction from several of his co-conspirators, including his supervisor Sherry L. Gibson, caused multiple investor reports containing false financial information for both NPF VI and NPF XII to be prepared and sent to trustees and investment rating companies. Many of these fraudulent investor reports were transmitted to recipients by interstate facsimile communication from Dublin, Ohio.

From at least July 1999, BRIAN J. STUCKE and his co-conspirators exchanged memoranda in electronic messages, recording plans for creating false records and furthering their efforts to deceive auditors, rating companies and investors. While not using the term Ponzi scheme, some of the memoranda described how new investor money would be used to cover millions of dollars in existing shortages in reserve and equity accounts, rather than to purchase assets as represented to investors. Other memoranda described how multimillion dollar, critically timed wire transfers created the illusion that required funds were held in various NPF VI and NPF XII bank accounts.

The Information filed in this case details thirty-five (35) overt acts, among others, committed by the conspirators in furtherance of the conspiracy. One specific overt act occurred on or about October 26, 1999, when BRIAN J. STUCKE addressed a confidential memorandum to Conspirator A, with copies to Conspirator B, Conspirator C, Conspirator D, Conspirator G, and Sherry L. Gibson which provided, in pertinent part:

In an effort to meet the compliance requirements in the A/R portfolios despite a considerable cash shortage projected at month end October, 1999, I have calculated the ***minimum*** cash required in the portfolios to avoid an event of default, which would result in early amortization of the portfolio(s). Events of default include failing the Equity Requirement or the Collateral Coverage Test. Reporting the Credit and Offset Reserve balances below their required percentages is not an event of default. Therefore, the balances in these reserves have been reduced to the amount needed to meet the collateral coverage test only. ***Calculated at this level, the shortage is reduced from \$51,500,000 to \$36,200,000.***

One of the following options may be used to remedy this situation:

1. On Thursday, October 28, 1999, NCFE will meet the minimum compliance requirements in NPF VI and NPF XI, for which the Trustee is Chase Manhattan, by wiring approximately \$36,000,000 from NPF XII to NPF VI and NPF XI . . . The cut off for investor reporting for October, 1999, in NPF VI and NPF XII (Chase Manhattan) will then be October 28, 1999 instead of October 29, 1999.

On Friday, October 29, 1999, NCFE will wire the \$36,000,000 from NPF VI and NPF XI back to NPF XII. It will also be necessary to wire approximately \$5,800,000 from NPF WL to NPF XII and \$1,100,000 from NPF WL to NPF LP on that day. The cut off for investor reporting for October, 1999, in NPF XII, NPF LP and NPF WL will then be the regular date of October 29, 1999. These three portfolios are managed by the same Trustee, Bank One.


This option is probably the best one, although there is a concern that the Trustee(s) will question such a large amount of cash leaving/coming in to the portfolio(s).

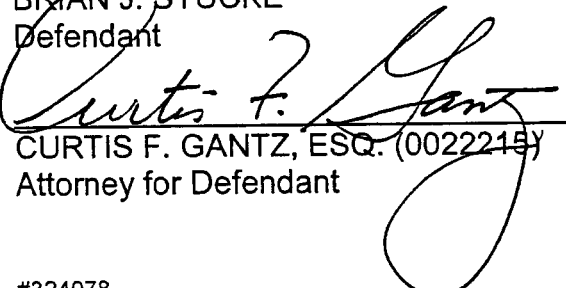
2. The majority of the problem (\$34,000,000) is in NPF VI. NCFE allows NPF VI to remain noncompliant in anticipation of one or more of the following: 1) a new series in NPF VI anticipated later in November; 2) funds from sources outside the a/r portfolios. . . All other portfolios would meet minimum compliance requirements through intercompany wires much as described in Option 1; however, the amount of cash that would need to be moved would be considerably less and it is doubtful


that the Trustee would question it. The fact that NPF VI would technically be in default as of October 29, 1999 would have to be addressed in some manner with the investors/trustees.

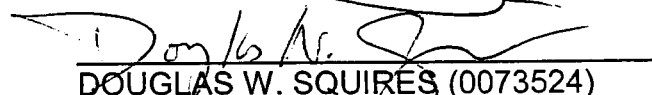
On July 10, 2000, BRIAN J. STUCKE tendered a resignation memorandum as the Director of Compliance for NCFE stating, "[e]thical conflicts prohibit me from continuing to perform the duties of this position." Thereafter, BRIAN J. STUCKE transferred to NCFE's Information/Technology Department. BRIAN J. STUCKE was not a member of the Board of Directors and had no ownership interest in NCFE.

APPROVED:


BRIAN J. STUCKE
Defendant


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